

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं श्री
श्री एस. जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.2560 & 2561/Chny/2018
निर्धारण वर्ष /Assessment Years: 2013-14 & 2014-15

Shri T.E. Abinеш
Abi & Abi Group of Companies,
Institution and Media,
Unit No:382, 10th Floor,
Seethakkathi Business Centre,
Anna Salai, Thousand Lights,
Chennai – 600 006.
[PAN: BBEPА 7824A]

The Assistant Commissioner of
Income Tax,
Vs. Non Corporate Ward-8(1),
Chennai – 600 034

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr. S.R. Raaman, C.A.
: Ms. R. Anita, JCIT

सुनवाई की तारीख/Date of Hearing

: 02.12.2019

घोषणा की तारीख /Date of Pronouncement

: 02.12.2019

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

These are two appeals filed by the Assessee against the consolidated orders of the learned Commissioner of Income Tax (Appeals)-9, Chennai in

ITA Nos.98 & 93/CIT(A)-9/2016-17 dated 27.06.2018 for the Assessment Years 2013-14 & 2014-15.

2. Shri Mr. S.R. Raaman, Chartered Accountant represented on behalf of the Assessee and Ms. R. Anita, JCIT represented on behalf of the Revenue.

3. It was submitted by the learned Authorized Representative that the Assessee is an individual who is in the business of hiring of vehicles, dealing in wholesale trading of soft drinks and also doing finance business. The Authorized Representative also submits that the assessee is also involved in film production. It was a submission that the assessee had made interest payments to various NBFCs being Tata Finance, L&T Finance, Kotak Mahindra Finance, etc.

As the assessee had failed to deduct TDS required u/s.194A, the Assessing Officer had disallowed the interest payments by applying to the provisions of Section 40(a)(ia) of the Income Tax Act, 1961. It was a submission that the assessee was in the process of obtaining a certificate from the Chartered Accountants of the persons to whom the interest has been paid to submit that the recipients had offered the interest income to tax. It was a submission that all the certificates have not been obtained. However, it was further a submission that the issue may be restored to the file of the Assessing Officer for re-adjudication in line with the decision of the Hon'ble Supreme Court in the case of Hindustan Coca Cola Beverages P. Ltd., reported in 293 ITR 226 (SC) and also to the decision of the Hon'ble Delhi High Court in the

case of the Commissioner of Income Tax Vs. Ansal Land Mark Township (P) Limited reported in [2015] 377 ITR 635 (Delhi).

4. In reply, the learned Departmental Representative supported the order of the learned Assessing Officer and the learned CIT(A).

5. We have considered the rival submission and perused the materials available on record.

6. In view of the decision of the Hon'ble Supreme Court in the case of Hindustan Coca Cola Beverages P. Ltd., referred supra and also the decision of the Hon'ble Delhi High Court in the case of the Commissioner of Income Tax Vs. Ansal Land Mark Township (P) Limited and the decision of the Hon'ble Jurisdictional High Court in the case of S.A.A. Ispahani Trust, Tax Case Appeal No.179 & 180 of 2009 dated 04.10.2010, wherein it has been held that the recovery could not be made once again from the assessee when the payee has included the income on which tax was allegedly to have been deducted. This being so, in the interest of natural justice, the issue is restored to the file of the Assessing Officer for re-adjudication and to grant the assessee adequate opportunity to produce evidence to show that the recipients have offered the said interest into tax.

7. In the circumstances, the issue is restored to the file of the Assessing Officer for re-adjudication in line with the decision of the Hon'ble Supreme Court in the case of Hindustan Coca Cola Beverages P. Ltd., referred to supra

and after granting adequate opportunity to the assessee to substantiate its claim.

8. In Ground No.5 of the assessee's appeal, the assessee has challenged the action of the learned CIT(A) in confirming the addition on account of the travelling expenses and cash deposits. The assessee has been unable to produce any evidence to substantiate the said ground. The perusal of the order of the learned CIT(A) shows that though substantial opportunity has been granted to the assessee, no evidence has been produced before him also. Before the Assessing Officer also no evidence has been produced.

9. This being so, in the absence of any evidence being produced, the findings of the learned CIT(A) and that of the Assessing Officer in respect of the additions representing the travel expenses and the cash deposits stands confirmed.

10. In the result, the appeals of the assessee are partly allowed for statistical purposes.

Order pronounced in the open Court on 2nd December, 2019 in Chennai.

Sd/-

(श्री एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 2nd December, 2019.

IA, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF